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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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David N. Harris

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EXAMINER

ALVAREZ, RAQUEL

ART UNIT

PAPER NUMBER

3688

MAIL DATE

DELIVERY MODE

09/03/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/617,361	Applicant(s) HARRIS, DAVID N.	
	Examiner Raquel Alvarez	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 60-118 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 60-118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to communications filed on 5/4/2009.
2. Claims 60-118 are presented for examination.
3. Prosecution is hereby re-opened as per remand from the Board of Appeals dated 5/4/2009 in order to address claim 118 under the proper rejection heading.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 60-65, 72, 74-80, 87, 89-95, 102 and 104-118 are rejected under 35 U.S.C. 102(b) as being anticipated by Blonder et al., patent number 5,708,422 (hereinafter Blonder).

With respect to claims 60-65, 72, 74-80, 87, 89-95, 102 and 104-118, Blonder teaches a method for verifying a commercial transaction comprising: receiving a transaction approval request from the merchant, the request including the account number (col. 2, lines 60-65, lines 45-50, col. 4, lines 55-65, col. 5, lines 5-10),, electronically verifying the approval request with the account holder via a separate communication from the merchant (see at least col. 2, lines 50-55, col. 3, lines 5-15, 25-35, col. 5, lines 40-50, col. 6, lines 50 - col. 7, line 5) and transmitting an approval to the

Art Unit: 3688

merchant pursuant to a selectively enabled verification function (col. 3, lines 1-5, col. 10, lines 35-37).

Blonder also teaches a computer system for verifying a commercial transaction comprising: a processing unit for processing data and code, a memory device for storing data and code including a merchant communications module to facilitate a connection with the merchant for receiving a transaction approval request including a complete account number (fig. 1, col. 2, lines 60-65, lines 45-50, col. 4, lines 55-65, col. 5, lines 5-10)., an account holder communications module operative to facilitate a separate connection with the account holder for verifying the request (see at least col. 2, lines 50-55, 01. 3, lines 5-15, 25-35, col. 5, lines 40-50, col. 6, lines 50 - col. 7, line 5)., and an authorization module responsive to receipt of the approval request and transmitting an approval to the merchant only if the approval request is verified by the account holder (fig. 7, fig. 9, fig. 10 (at least), col. 10, lines 35-37).

Blonder also teaches the authorization module includes an interactive verification module responsive to the approval request and initiating a connection with the account holder and verifying the transaction request by prompting the account holder to verify the request (col. 7, line 65 - col. 9, line 30)., sending an electronic message to the account holder via a network interface and receiving a reply to the electronic message (col. 6, lines 55 - col. 7, line 3, col. 9, lines 10-30)., a telecommunications device where the interactive verification module places an automated telephone call to the account holder and includes establishing a telephone connection with the account holder, reciting a portion of the request to the account holder, and receiving verification

Art Unit: 3688

instructions from the account holder (col. 8, lines 10-55)., the authorization module is responsive to instructions from the account holder to automatically verify subsequent transaction approval requests without further input from the account holder and instructions for enabling or disabling the electronic verification (col. 5, line 30-45, col. 7, lines 1-10, col. 14, lines 35-67)., the authorization module includes a master verification module responsive to the lapse of a predetermined time period and operative to disclaim the request if the request has not been verified by the account-holder (col. 7, lines 5-15, 01. 10, lines 5-20, lines 55-65)., the transaction approval request is a verification request from a third-party financial institution and the authorization module transmits indicia of verification to the third party institution (col. 5, lines 30-35, col. 9, lines 25-30).

With respect to the newly amended feature of a verification switchable between at least a first state and a second state, said first state enabling a previously established verification requirement and said second state disabling said previously established verification requirement. Blonder teaches on Figure 3, that when approval flag is set to “no” then a permissible maximum transaction can take place **without** obtaining answer or verification from the account holder, disabling notification to the card holder. Setting the Approval flag to “yes” the system **initiates** communication with the cardholder to determine if amount above a certain threshold can be authorized.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 66 and 81 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blonder (5,708,422 hereinafter Blonder).

With respect to claims 66 and 81 While Blonder teaches the interactive verification module requires authentication from the account holder prior to reciting a portion of the approval request (col. 8, lines 45-50), Blonder does not teach the use of an authentication code for this purpose. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to have used an authentication code prior to reciting a portion of the approval request in Blonder since, at least, personal identification numbers, or pin, are well known in the art for identifying/authenticating customers (claims 15,25). Use of the pin authentication would have at least reduced the processing and storage demands of voice recognition particularly considering the number of customers the system would need to serve.

Art Unit: 3688

8. Claims 67-71, 73, 82-86, 88, 96-101 and 103 are rejected under 35

U.S.C. 103(a) as being unpatentable over Blonder in view Certificate Manager and further in view of Joao et al. (6,529,725 hereinafter Joao)

With respect to claim 67-71, 73, 82-86, 88, 96-101 and 103, Blonder teaches establishing a connection with the account holder, authenticating the account holder, transmitting a portion of the approval request, and receiving verification instructions from the account holder with respect to the approval request (col. 8, lines 10-55), but does not show waiting for a connection initiated by the account holder. Joao teaches the account holder can contact the central processing office or processing center to approve the transaction (col. 7, lines 12-18, col. 19, lines 1-7, col. 19, line 65 - col. 5). It would have been obvious to one having communication with the system as in Joao since this would have provided the customer the time he/she needed to decide whether to approve/disapprove the transaction. It also would have been obvious to have transmitted a notice to the account holder when the transaction approval request was disclaimed as in Joao since this would have provided a complete record of activity for the account holder.

Response to Arguments

With respect to claims 60, 75, 114,-115, 117 and 118, Appellant argues that Blonder doesn't teach the account-holder turning the verification function off and on. The Examiner disagrees with Appellant because Blonder clearly teaches on col. 6, lines

Art Unit: 3688

5-10 “The approval flag field 304 alerts the card issuer that credit card transactions that violate pre-established conditions need to be authorized by the card owner as part of the card validation process. **These pre-established conditions may be pre-selected by the card owner** or they may be conditions imposed by the card issuer” As can be seen above, Blonder teaches the card owner pre-establishing and pre-selecting, the approval flag to be turned on or off (i.e. approval flag set to **no** for turning it off or **yes** to turn the verification on).

With respect to claims 105 and 107, Appellant argues that Blonder doesn't teach the account holder initiating communication prior to notification. The Examiner disagrees with Appellant because Blonder teaches on col. 11, lines 43-60, “In alternative applications, the customer may have instructed the retailer (or an agent of the retailer) in person or via some communication mechanism (e.g., a phone, mail, facsimile or electronic mail) **at a time prior to the initiation of the transaction**” as can be seen by the passage of Blonder above, the customer initiates communication about the details of the transaction prior to the transaction taking place.

With respect to claims 74, 89, 106 and 109, Appellant argues that Blonder doesn't teach the financier submitting a verification request to a third party for verification. The Examiner disagrees with Appellant because Blonder teaches the financier (credit card issuer) using validation database 106 for verifying if the user's profile coincide with the user's transactions. The validation database 106 acting as the third party.

Art Unit: 3688

With respect to the arguments pertaining to claims 66 and 81, 67 and 82, 68, 69 and 84, 70, 71, 85 and 85, 73 and 88, the arguments are moot because the Appellant argues that Blonder doesn't anticipate the claims. The Examiner wants to point out that the claims were rejected under the doctrine of 103 over Blonder in view of Joao. See rejection above.

Point of contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert A. Weinhardt can be reached on (571)272-6633. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3688

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/
Primary Examiner, Art Unit 3688

Raquel Alvarez
Primary Examiner
Art Unit 3688

R.A.
8/24/2009